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ATTORNEYS AT LAW

December 19, 2007

**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: *Federal State Joint Board on Universal Service, High Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45

Dear Ms. Dortch:

This letter responds to ACS Wireless' ("ACS," except as specifically noted) ex parte of November 14, 2007 and subsequent follow-up ex parte of December 11, 2007. Apparently ACS believes that as the largest incumbent local telephone company and second largest wireless carrier in Alaska, and Alaska's largest recipient of high cost universal service funding – and second largest (to AT&T/Dobson) recipient of high cost CETC funding – ACS and all its affiliated companies lack the scale and scope to compete with GCI in providing broadband service to rural Alaska. Ignoring the dearth of wireless facilities throughout rural Alaska, ACS instead asks the Commission to subsidize the long distance private line transport services provided today by a competitive market *without any* USF subsidy.

GCI's proposed modification to the Joint Board's proposed high cost USF cap is simple, and oriented towards providing a tangible benefit for consumers – ultimately, the core aim of the universal service program. GCI proposed that a CETC serving Alaska Native and Tribal Lands – those already eligible for enhanced Lifeline support – would not be subject to the proposed high cost USF cap if the CETC delivered broadband services of at least 400 kbps (one direction, local network) to 50% of the eligible households within a study area, and committed to offering service to 80% of the eligible households within a study area at a minimum speed of 1 mbps within three years. Consumers receive a direct benefit from the high cost support provided pursuant to this exclusion – high speed broadband services. As GCI has demonstrated, this exclusion would mean that high speed broadband services will be delivered to many more areas in Alaska than those that have broadband today, including many small and remote Bush villages. However, if the CETC opted for the exclusion, the CETC also had to agree to receive only one

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line of support payment for each residential and single-line business account.<sup>1</sup> The CETC would not be able to receive four or five times the ILEC's support level for serving a 4 or 5 (or maybe even 6) handset family plan. This ensures that even the CETC, subject to the exclusion, would be contributing to the fiscal rationalization of the high cost support programs.

Notably, this broadband capability is not something that ACS is delivering today over its wireless network in the smaller villages that it does serve, or even in Anchorage.<sup>2</sup> This is particularly glaring because ACS (not including ACS Wireless' ILEC affiliates) is projected to receive at least \$20.3 million in annual high cost support in 2008 – plus another \$8.9 million in annual Low Income Support.<sup>3</sup> Today, ACS offers mobile broadband only in the urban/suburban Anchorage suburbs (but not in Anchorage itself), Juneau and Fairbanks/North Pole. Indeed, ACS's mobile voice services are concentrated along Alaska's much easier to serve road network and the marine "highway" of southeast Alaska

Moreover, ACS today is exacerbating the growth of the high cost fund through its deliberate strategy of targeting family plans. In a recently concluded campaign, ACS offered up to \$600 in credits to customers that added handsets to their account (with credits dispensed at \$100/handset).<sup>4</sup> These family plans are extremely lucrative for ACS Wireless. In its Matanuska Valley coverage areas, ACS receives between \$23.76 and \$88.42 per month in additional USF for each handset added to its family plans; on the Kenai Peninsula, ACS Wireless receives up to \$35.20 per month in additional USF for adding a handset to a family plan. In these areas, USF paid for ACS's \$100 per handset promotional customer credits in between 5 weeks and four months. What a deal! It is not surprising that CETC funding now accounts for nearly 17% of ACS' wireless Average Revenue Per Unit – about 36% of its substantial wireless EBITDA.<sup>5</sup> The exclusion's one payment per residential and single line account provision ensures that this will not happen for CETCs that elect the exclusion. No wonder ACS views this fiscally responsible approach as a problem.

Finally, ACS's proposed "alternative" solution to expand broadband by subsidizing satellite backhaul is at best ill-conceived and lacks critical detail. First, one of the Commission's concerns with wireless CETC support has been that it is subsidizing service where it would be

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<sup>1</sup> Disbursements for multiline business accounts would continue to be issued on a per-line basis.

<sup>2</sup> See Attachment A (ACS Wireless Coverage Maps and ACS Wireless Mobile Broadband Maps), *available at*: <http://www.acsalaska.com/Cultures/en-US/Personal/Wireless/Wireless+Coverage+Maps.htm> (maps as of December 19, 2007).

<sup>3</sup> This is based on annualizing ACS Wireless' first quarter 2008 projected High Cost Fund support as reported by USAC. See Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for First Quarter 2008, Appendices HC-01 and LI-01, *available at*: <http://www.universalservice.org/about/governance/fcc-filings/2008/quarter-1.aspx>

<sup>4</sup> See Attachment B (ACS Wireless advertisement).

<sup>5</sup> See Alaska Communications Systems Group, Inc., 10-Q dated (reporting wireless quarterly ARPU of \$64.11, of which \$10.89 was CETC support, and wireless revenue of \$37.189 million and \$19.695 million of wireless operating expenses for third quarter 2007, for a third quarter wireless EBITDA of \$17.464 million). USF as a percentage of wireless EBITDA for the first nine months of 2007 is not materially different.

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provided without a subsidy. Yet, ACS proposes to provide backhaul support for services that today are already being provided without a subsidy. Second, ACS provides no explanation how such support would be calculated. Is ACS proposing that the USF should be supporting the costs of constructing, launching, operating, and maintaining a satellite, when there are already two satellite-based providers in operation without High Cost Support? That would dramatically increase the High Cost Fund. Of course, the Commission could not subsidize ACS's satellite backbone private line transport without subsidizing GCI's or any other ETC's as well. ACS would have the Commission further and arbitrarily inflate the High Cost Fund by untold amounts when that is exactly what the issue reform proposals are intended to address. That ACS, the largest ILEC in the state, has not chosen to invest in satellite capacity – as other providers have – is not a decision that should be “solved” in the first instance through subsidy.

The far better path is for the Commission to define a set of public benefits that it expects consumers to be able to achieve, and then leave it to the market to deliver those services. GCI's proposed exclusion does just that; like the Commission's Tribal Lands Lifeline support, it is a concrete, implementable proposal that will deliver real public benefits to Alaskan consumers and to other consumers that live on Tribal Lands nationwide – including real broadband service, while, in the exclusion areas, also curbing one of the most significant abuses of the existing CETC mechanisms.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata  
*Counsel to General Communication, Inc.*

cc: Ian Dillner, Legal Adviser to the Chairman  
Scott Deutchman, Legal Adviser to Commissioner Copps  
Scott Bergmann, Senior Legal Adviser to Commissioner Adelstein  
Chris Moore, Senior Legal Adviser to Commissioner Tate  
John Hunter, Chief of Staff to Commissioner McDowell  
Dana Shaffer, Chief, Wireline Competition Bureau  
Randy Clarke, Legal Counsel to the Bureau Chief, WCB  
Jeremy Marcus, Chief, Telecommunications Access Policy Division, WCB  
Jennifer McKee, Deputy Chief, Telecommunications Access Policy Division, WCB  
Ted Burmeister, WCB

# **ATTACHMENT A**

# ACS Wireless Coverage Maps

## Broadest Alaska & Nationwide Voice and Data Coverage

### Voice

- Crystal-Clear Voice Quality
- Fewest Dropped Calls
- Nationwide Voice Roaming
- More Secure Connections
- GPS Location Capabilities

### Standard Voice

*Enhanced Voice and Data Features Not Available*

### Data

- Fastest Mobile Data Speeds in the Nation
- Nationwide Data Roaming\*
- Take and Send Photos
- Surf the Web
- Send 2-Way Text Messaging
- Download Games, Ringtones, Emails, Sports, & much more
- Secure Connections

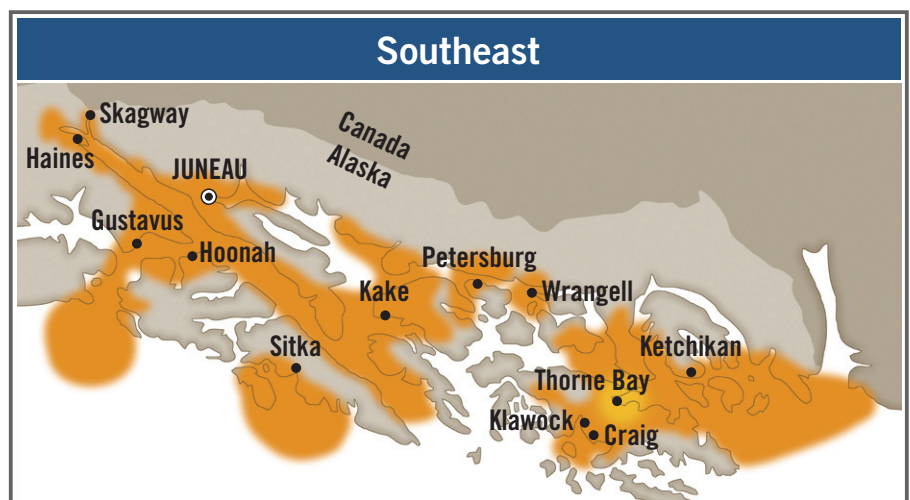
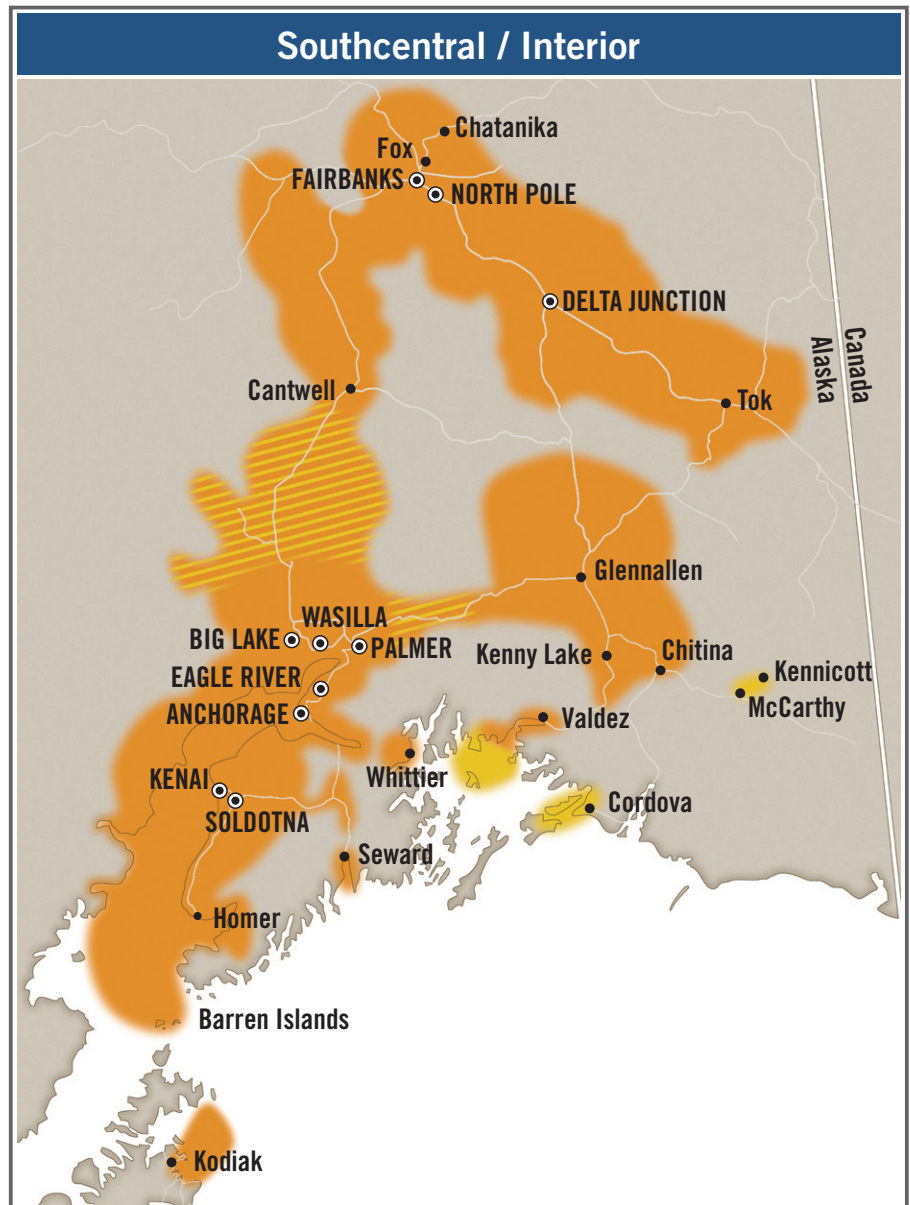
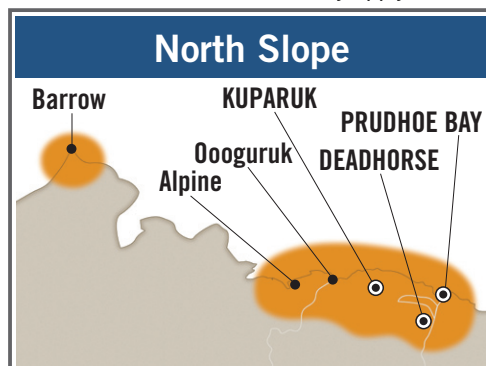
### Mobile Broadband

ANCHORAGE	KENAI
BIG LAKE	KUPARUK
DEADHORSE	NORTH POLE
DELTA JUNCTION	PALMER
EAGLE RIVER	PRUDHOE BAY
FAIRBANKS	SOLDOTNA
JUNEAU	WASILLA

### Enhanced Voice

*Data Features Not Available*

\*Some restrictions may apply.



Coverage may not be available at all times in all areas depicted on the map.

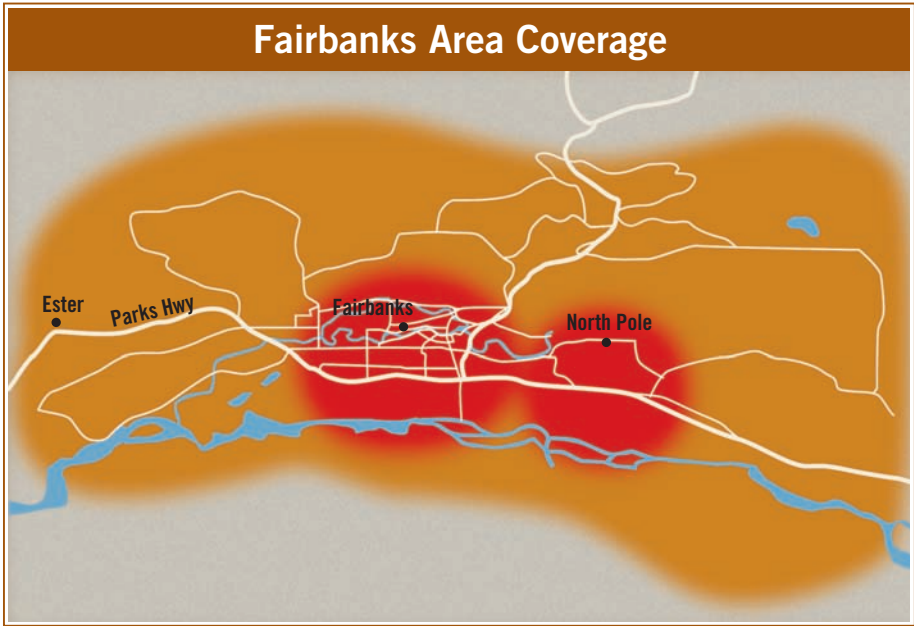
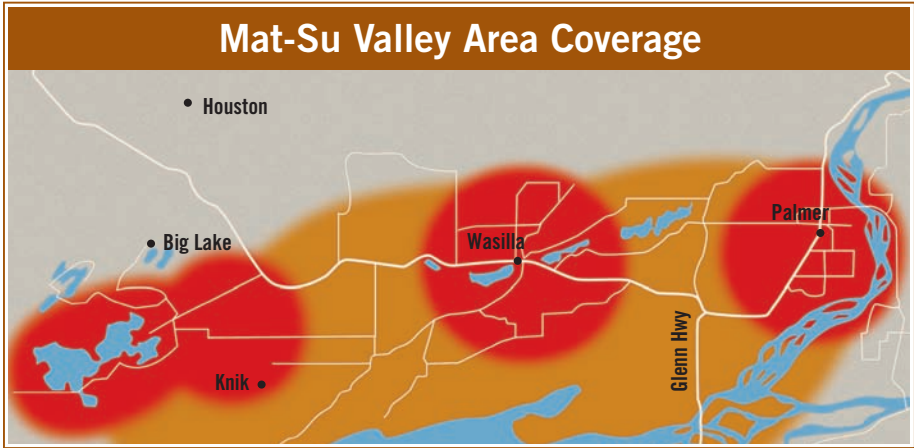
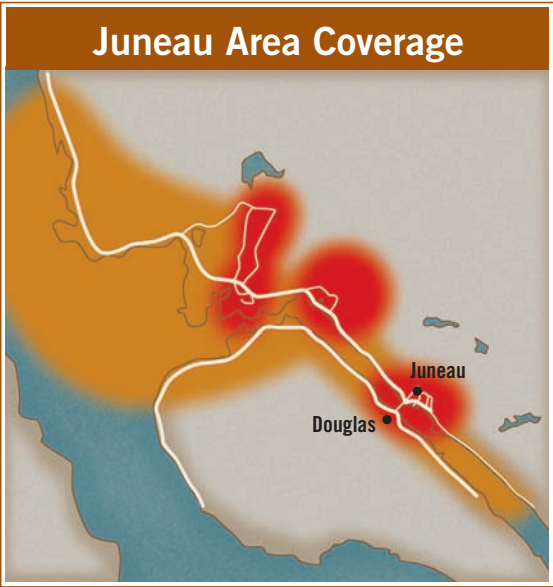
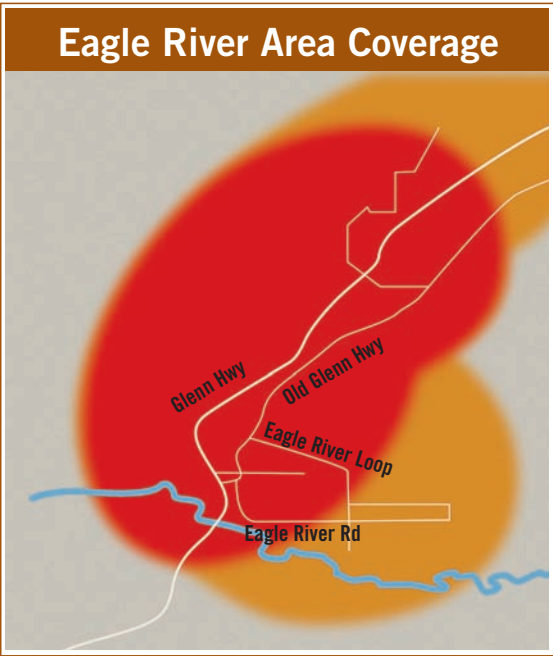
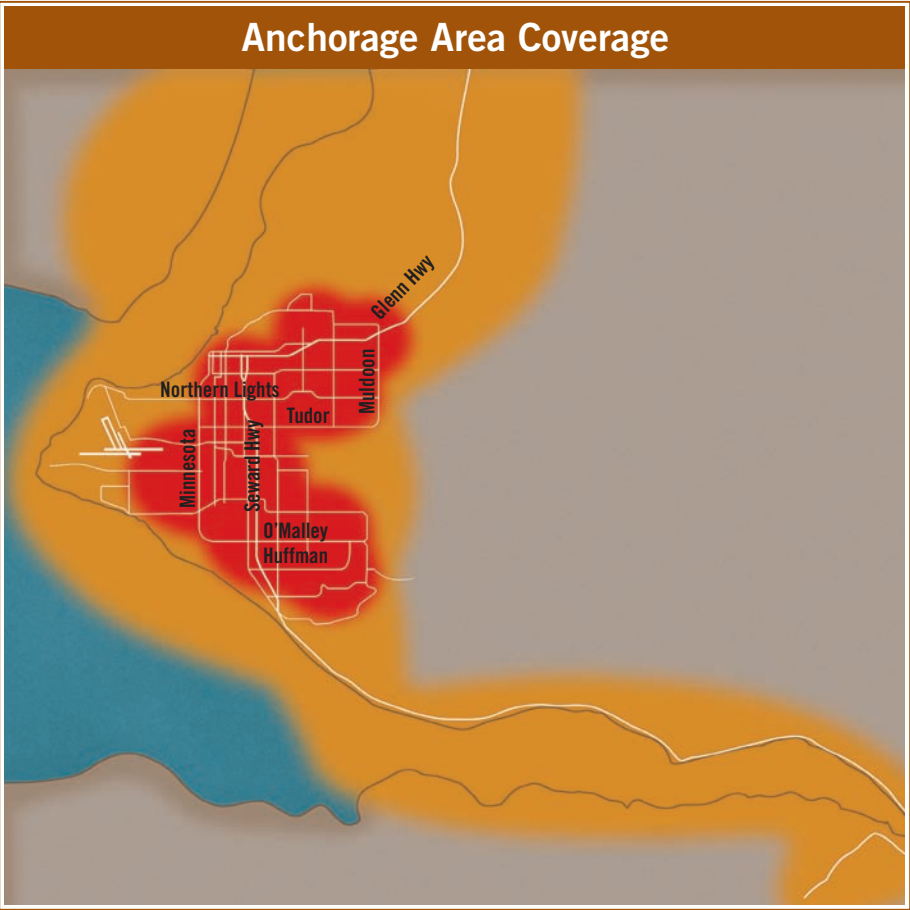


# ACS Wireless Mobile Broadband Area Maps

## A high-speed wireless connection for your PC.

Access your files and transmit data from anywhere in the coverage area—now in Anchorage, Eagle River, and Mat-Su Valley.

- Available Signal Area**  
Peak Data Rate Per User 156 Kbps  
Average Data Rate Per User 60-80 Kbps
- Strongest Signal Areas**  
Peak Data Rate Per User 2.4 Mbps  
Average Data Rate Per User 300-500+ Kbps



# **ATTACHMENT B**

We won't tell you how to spend your PFD.

We'll give you  
more money.

Get up to  
\$600

Ends  
Nov. 30

Get 100 bucks for every person who signs up on your  
wireless account. Use that money on **any phone you choose.**

**ACS. Alaska's Best Network.**

Offer applies with new two-year agreement and select plans for up to six new wireless phones activated on the account.  
A \$100 PFD cannot be combined with any other offer or used for any other product or service. See [www.acsalaska.com](http://www.acsalaska.com) for details.

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